

CHAPTER 1

PURPOSE AND NEED

CHAPTER 1: PURPOSE AND NEED

Purpose of the Exchange

The purpose for the proposed land exchange is to:

- 1) facilitate the conveyance of the Alberton Gorge River Corridor into public ownership to preserve the natural values of the Corridor;
- 2) improve, increase and perpetuate fishing access along the Clark Fork River;
- 3) consolidate land ownership in areas of western and central Montana, thereby allowing both the Forest Service and Montana Fish, Wildlife and Parks to improve administration of land management activities, including: fish and wildlife management, public outdoor recreational use, campground maintenance, and noxious weed management.

Description of the Proposed Exchange

This land exchange is based around the Alberton Gorge River Corridor, a seven-mile segment of the Clark Fork River located near the town of Alberton, about thirty miles northwest of Missoula. The Alberton Gorge is known regionally for its rugged, scenic canyon that supports water-based recreation activities for thousands of users annually. The corridor provides high-quality trout fishing, and serves as a ribbon of riparian habitat important to black bears, deer, elk, eagles, osprey and many other species.

The Montana Power Company (MPC) had acquired most of the privately owned shoreline in the Alberton Gorge to serve as the holding area for a possible reservoir that would accompany development of a dam and hydropower facility at the mouth of Fish Creek. Subsequently, MPC decided not to pursue hydropower development, and in the 1990s MPC began seeking ways to dispose of the Alberton Gorge property. Rather than put the land on the open market, however, MPC sought partners to secure an outcome that would protect the natural, scenic and recreational values of the Gorge. As part of that effort, MPC purchased additional land along the Gorge to prevent residential development and to assemble approximately 320 acres as a conservation package for potential public acquisition.

The Montana Department of Fish, Wildlife and Parks (FWP) and the Forest Service (FS) expressed their willingness to work with MPC to help conserve this spectacular landscape. In November 1998, River Network, a nonprofit conservation organization, became part of the conservation effort, paying \$50,000 to MPC for a one-year option to purchase all of MPC's land in the Alberton Gorge River Corridor. In April 2000, River Network paid an additional \$50,000 to extend the option through the year 2000; subsequent extensions granted by MPC continued this arrangement into 2002. During this time a detailed land exchange proposal was being developed by the participating agencies and organizations. River Network may decide to assign their interest in the real property to a subsequent nonprofit organization due to internal reorganization and financial reasons; presently, Five Valleys Land Trust, a nonprofit organization based in Missoula, is seriously considering the assignment.

In February 2002, NorthWestern Energy, a division of NorthWestern Corporation, purchased the transmission and distribution utility operations from MPC. Included in this purchase was the Alberton Gorge River Corridor. NorthWestern Energy is the current owner of this tract, though much of the exchange negotiations were with MPC. Since assuming ownership of Alberton Gorge, NorthWestern Energy has worked cooperatively with River Network, extending the option agreement and continuing to work toward the goal of transferring the Alberton Gorge River Corridor property to Montana Fish, Wildlife & Parks through the Alberton Gorge Land Exchange.

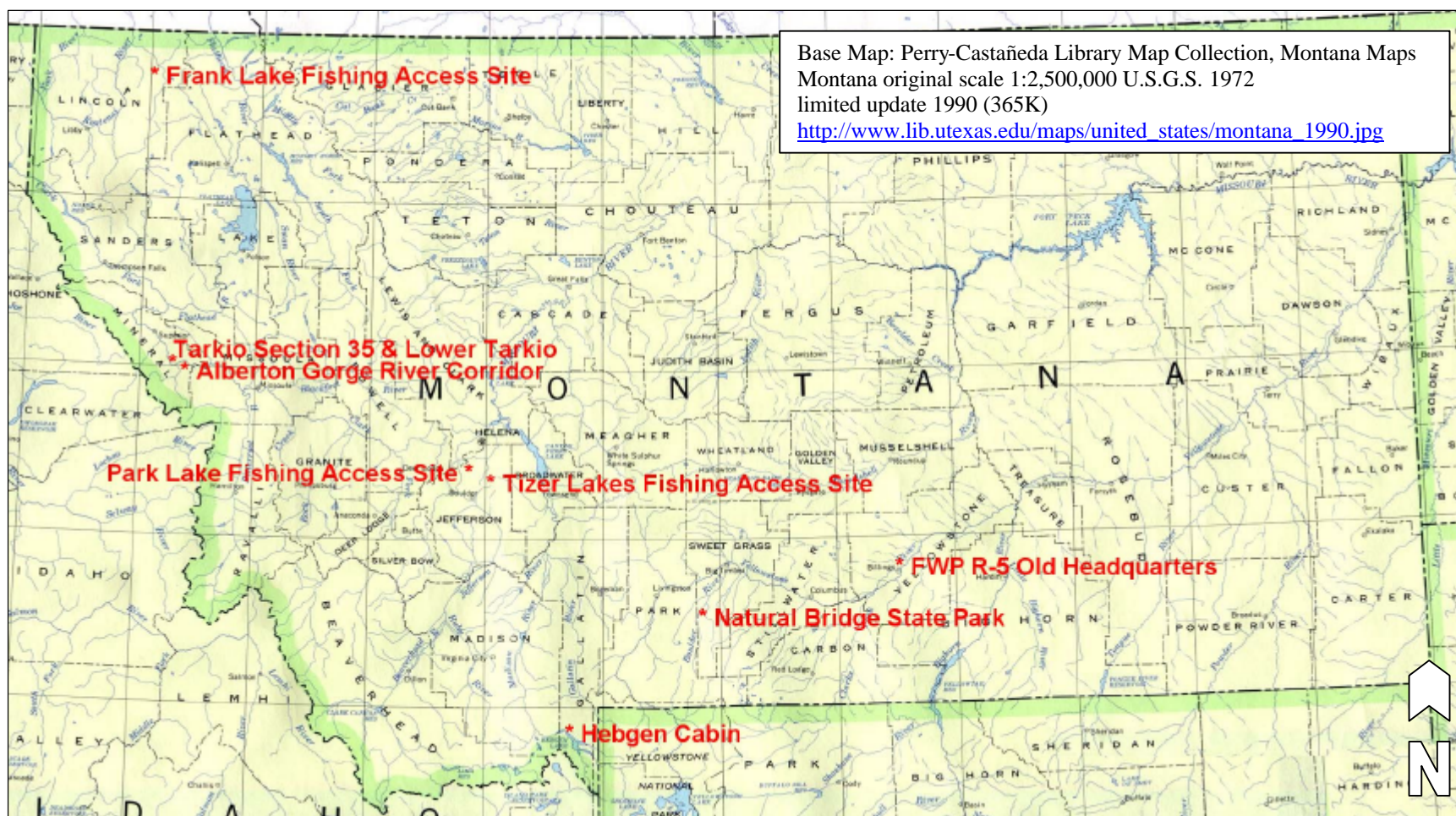
NorthWestern Energy declared bankruptcy on September 14, 2003, which may complicate the logistics of the proposed exchange; however, the participating parties are optimistic that the project still can proceed with similar results. In a letter from NorthWestern's Director of Land and Permitting to River Network dated December 8, 2003, NorthWestern affirmed their continued desire to complete the proposed exchange.

The proposed Alberton Gorge Land Exchange involves the transfer of tracts between three parties: FWP, FS, and River Network. These three parties will exchange a combination of land and cash with equal total market values. *Map 1: Alberton Gorge Land Exchange Tract Location Map* on the next page identifies the tracts proposed in this exchange. The diagram in *Figure 1* outlines the exchange procedure and the proposed phases of the exchange. *Table 1* lists the tracts in the exchange, current and future owners, the appraised values, and the acreage of each tract.

This exchange proposes that River Network will acquire Lower Tarkio (portion of Section 34) and a portion of Tarkio Section 35 from the FS (Lolo National Forest), and the Region 5 Old Headquarters in Billings from FWP. River Network intends to reconvey these three tracts to generate cash needed to purchase the Alberton Gorge from NorthWestern Energy. River Network also proposes to retain two parcels (2a and 11a) within the Alberton Gorge with plans to transfer these parcels to the Montana Department of Natural Resources in a future land exchange (see page 51 for more detailed information).

The FS has also identified the Hebgen Cabin tract as a disposal parcel near Hebgen Dam in south central Montana (Gallatin NF) and proposes to transfer it to River Network. River Network would then convey the Hebgen Cabin tract to NorthWestern Energy as partial payment for the Alberton Gorge River Corridor. NorthWestern Energy owns several cabins on this land, and is allowed use of the tract by virtue of its location within the FERC Madison/Missouri Hydroelectric Project Boundary. The tract is in the process of being removed from the FERC boundary, after which NorthWestern Energy would need to request a special use permit from the FS to allow use of the company-owned cabins until the land exchange is completed.

MAP 1: Alberton Gorge Land Exchange Tract Location Map



FWP proposes to transfer four tracts to the FS. The Park Lake Fishing Access Site (FAS) and Tizer Lakes FAS are located in the Helena National Forest (NF). Natural Bridge State Park, on the Boulder River, is located in the Gallatin National Forest. Frank Lake FAS is located near Eureka, in the Kootenai National Forest. The first three parcels are inholdings within national forest boundaries; Frank Lake is adjacent to national forest boundaries. Park Lake, Tizer Lake and Natural Bridge have been identified by FWP for disposal for nearly 10 years. All sites have been identified for acquisition by the respective National Forests.

The value of the lands transferred from FWP to the FS would be equal to the value of lands plus cash equalization transferred from FS to River Network (transfers A and B in Figure 1, below).

River Network would transfer a portion of the Alberton Gorge to FWP equal to the value that FWP transferred to the FS. Furthermore, FWP would also transfer the Region 5 Headquarters to River Network to attain additional land in the Gorge (Transfer C in Figure 1).

Each agency would receive value in land and/or cash equal to the value the agency conveyed.

Phase 2 has been proposed because the FS will not accept title to the Park Lake tract until the dam is upgraded. FWP is in the process of improving the structure to meet state dam safety standards. FWP will retain ownership of Park Lake until such time that the dam is brought up to mutually acceptable standards between the state and federal agencies. The agencies are collaborating on the final design for dam repair. To allow time for construction, negotiation, and to avoid postponing the other components of the exchange, this tract is proposed for exchange at a later date, referred to as Phase 2. The FS would receive Middle Osprey Fishing Access Site (FAS) in Phase 1 and hold it to directly exchange for Park Lake in Phase 2. Phase 2 can be independent of Phase 1, i.e. the tracts are similar in market values and fishery values to accommodate FWP and FS equal exchange requirements. If Phase 2 is not completed for reasons unforeseen, FWP and the FS would look at other options to achieve the original goals of FS ownership of Park Lake and FWP ownership of Middle Osprey FAS as part of the Alberton Gorge River Corridor or the parties will arrange cooperative management agreements for the respective sites.

The fair market value (FMV) of land transferred from FS ownership to River Network will equal the FMV of the land the FS receives from FWP. The FS will acquire FMV and resource values equal to the resource values conveyed. The FS could provide a cash equalization payment of up to 25% of the FS estate value in the exchange, which would reduce the FS acreage transferred. The intended use of lands transferred between the participating parties will coincide with adjacent forest plans and in some cases remain similar to existing uses.

FIGURE 1. Diagram of the Alberton Gorge Land Exchange

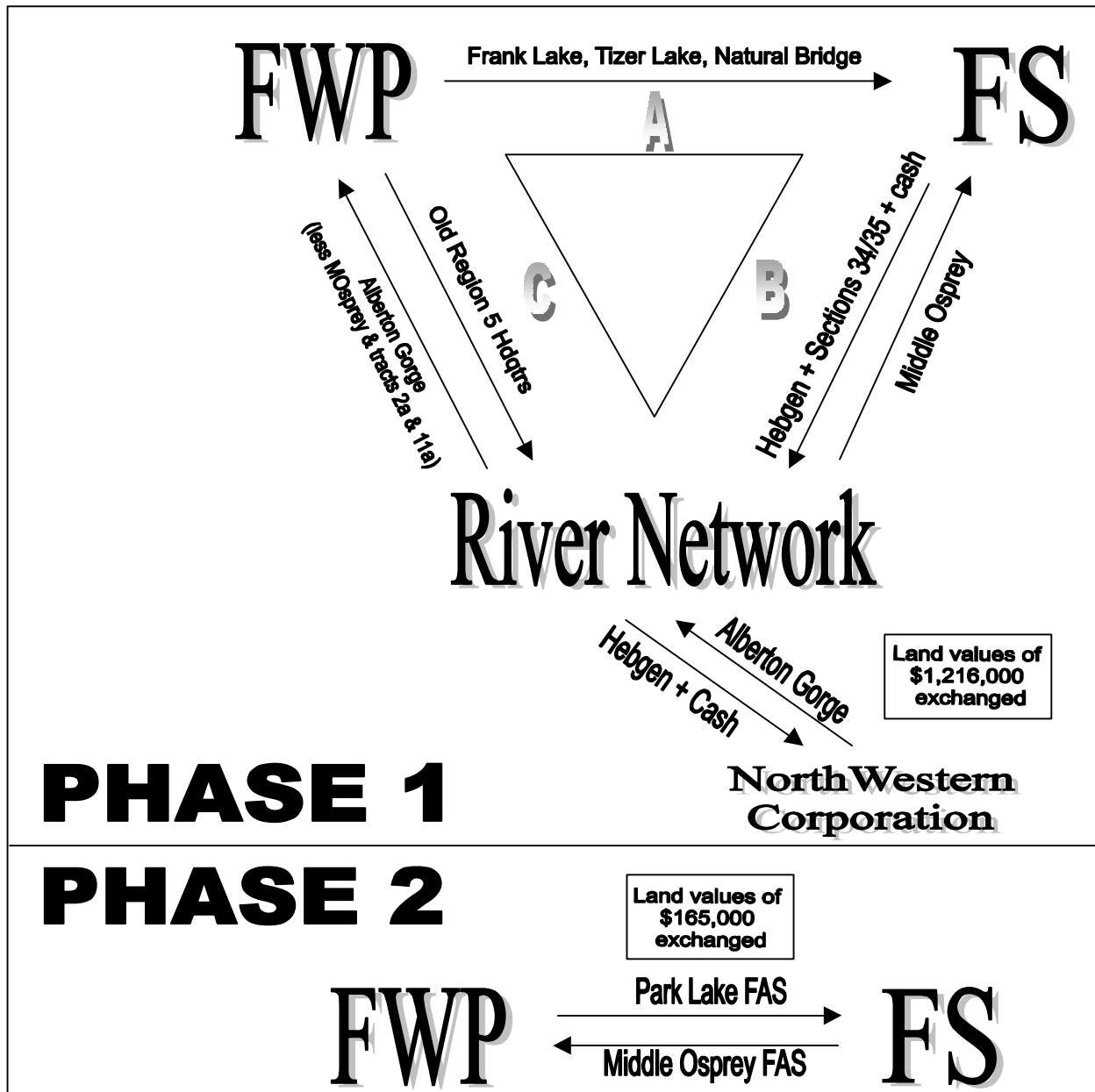


TABLE 1. Table of Proposed Land Exchange Tracts, Current and Future Ownership, Acreage and Appraised Values (including Phase 2 action)

Tract	Owner	Transfer to:	Approximate # Acres	Appraised Value
Frank Lake FAS	FWP	FS (Kootenai NF)	90.40	\$407,000
Natural Bridge SP	FWP	FS (Gallatin NF)	40.00	\$344,000
Park Lake FAS	FWP	FS (Helena NF)	95.88	\$165,000
Tizer Lakes FAS	FWP	FS (Helena NF)	142.29	\$196,000
Total FS Acquisition			369	\$1,112,000
Alberton Gorge (1998 value)	NorthWestern Energy	River Network buys with cash, transfers to FWP (-) parcels 2a & 11a	305	\$1,206,600
Cash Equalization	River Network	FWP for parcels 2a & 11a		\$9,400
Cash Equalization	River Network	FWP for balance over appraised value of Region 5 Old Hdqtr		\$16,000
Total FWP Acquisition			305	\$1,232,000
Region 5 Old Hdqtr	FWP	River Network sells to buy Gorge (\$104,000 value needed)	2.66	[^] 120,000
Lower Tarkio	FS	River Network sells to buy Gorge	34.40	* \$37,620
Tarkio Section 35 S½	FS	River Network sells to buy Gorge	320	* \$652,080
Tarkio Section 35 N½	FS	River Network sells to buy Gorge	210	* \$364,614
Hebgen Cabin	FS	River Network, then transfer to NorthWestern Energy for Gorge	2.2	* \$43,000
Cash Equalization	FS	River Network to buy Gorge	0	* \$14,686
Alberton Gorge parcels 2a & 11a (1998 value)	NorthWestern Energy	River Network retains for future DNRC exchange	19.5	\$9,400
Total River Network Acquisition			589	\$1,241,400

[^] This value is pending appraisal determination.

* Total value of the four FS tracts plus cash equalization equals \$1,112,000 and the total FS acquisition value from FWP.
Note: Tracts within the Alberton Gorge have not been surveyed, therefore acreage may vary slightly. Acreage shown is based on the 1998 appraisal data for individual tracts.

Below is a summary of changes made to the proposal outlined in the Draft Environmental Assessment published in June 2000. These changes were made in response to public concerns about impacts to specific tracts, to equalize the exchange, and provide a more acceptable exchange for all parties, including the public.

- The original proposal indicated that 240-400 acres of Tarkio Section 35 would be transferred from the FS to River Network and development would likely be restricted. The number of acres currently proposed to transfer from the FS to River Network in Tarkio Section 35 has increased to about 530 acres. River Network would voluntarily place restrictive covenants on the land if it is conveyed to a private party.
- The Lower Tarkio tract was originally proposed for transfer from the FS to FWP. The current proposal will transfer the Lower Tarkio tract to River Network.

- The FS also proposes to transfer the Hebgen Cabin tract to River Network who will then convey the tract to NorthWestern Energy as partial payment for the Alberton Gorge. NorthWestern Energy would voluntarily place a third party easement on the land to protect the existing resources and prohibit subdivision.
- River Network may retain two or more parcels within the Alberton Gorge River Corridor near Cyr Bridge for use in a possible future land exchange with the Department of Natural Resources and Conservation (DNRC).
- A portion of Park Lake was originally proposed for transfer from FWP to the FS in Phase 1, with the remaining portion, including the dam, to be transferred in Phase 2. Currently, all of Park Lake is proposed for transfer to the FS in Phase 2.
- A FAS parcel (Middle Osprey) within the Alberton Gorge River Corridor is proposed for equal exchange value for Park Lake in Phase 2. The Middle Osprey FAS site would be transferred from River Network to the FS in Phase 1. When the Park Lake dam is improved to agreed standards, the FS would transfer Middle Osprey FAS to FWP in Phase 2.

Public Benefits of the Proposed Exchange

State Tracts

Conveyance of the FWP tracts to the FS will provide several important public benefits:

- FS would acquire three in-holdings (Natural Bridge, Park Lake, Tizer Lake) within Forest Service boundaries;
- FS would have consolidated management of two recreation facilities (Natural Bridge & Park Lake) eliminating public confusion and law enforcement jurisdiction concerns;
- FS would be able to expand the recreational facility at Park Lake, emphasizing protection of the lakeshore and improving accessibility to the lake;
- FS would be able to improve the recreational facilities at the Natural Bridge;
- FS would consolidate ownership of the Elkhorn Wildlife Management Unit (Tizer Lake);
- FS would acquire habitat valuable for threatened and endangered or federally sensitive species (Frank Lake, Natural Bridge, Park Lake, Tizer Lakes).

Conveyance of the FWP Region 5 Old Headquarters to River Network will also provide important public benefits:

- Eliminates maintenance and fees paid on a property which no longer serves the primary function for which it was purchased;
- Allows for future productive use of urban tract land in Billings.

Federal Tracts

Conveyance of the Federal lands to River Network will accomplish several important public benefits:

- Eliminates the FS management of an isolated parcel and the administration and maintenance of a road to access these parcels (Lower Tarkio and Tarkio Section 35);
- Increases the acreage of private land in Mineral County tax base;
- Through this three way land exchange, the Alberton Gorge would be placed in public ownership to provide improved fishing access, and preserve the natural values of the Gorge;

Private Tracts

Conveyance of the NorthWestern Energy tract to River Network, then into public ownership, will accomplish these important public benefits:

- Improves public fishing access for anglers along the Clark Fork River;
- Preserves the natural values of the 7-mile Alberton Gorge River Corridor, including fish and wildlife habitat and scenic values.
- Consolidates public ownership and management along the Alberton Gorge River Corridor for public use.

Appraisals Used to Determine An Equal Exchange

Each tract of land included in the land exchange has been appraised to determine the Fair Market Value of the property by requiring the appraiser to follow the Uniform Standards for Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) requirements.

The appraiser determines the highest and best of each tract of land. The analyses and the conclusion of the highest and best use are the basis of identifying the appropriate use or uses of the subject that will produce the greatest economic benefit for the owners. It is also used in the selection of comparable sales that are influenced by similar market conditions with a highest and best use consistent with the subject property. In arriving at the highest and best use conclusion, trends as indicated by sales, uses of similar properties in the area, economic conditions, in addition to characteristics of the subject property are all considered.

According to the *11th Edition of the The Appraisal of Real Estate* highest and best use is defined as: “the reasonable, probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.

To be at the highest and best use, the property must meet four criteria. It must be:

1. physically possible,
2. legally permissible,
3. financially feasible,
4. maximally productive.

The highest and best use of a tract identified in the appraisal determines the tract's value, but it is not necessarily an indicator of how that tract will be used or developed by the acquiring party in the proposed exchange.

FS guidelines specify that appraisal values must be updated every six months to one year, depending on local market activity, to maintain accurate FMVs and to ensure an equal exchange.

Alberton Gorge Land Exchange Appraisals completed as of November 2003

1a. Original Appraisal Reports of Federal (includes Lower Tarkio and Tarkio Section 35 and is referred to as only "Tarkio") and State (Frank Lake, Natural Bridge, Park Lake, Tizer Lakes) properties:

- Appraisal Date of Value November 7, 2000.
- Appraisal Reports Completed on May 18, 2001.
- Appraisals Completed by Lee Murray, Qualified Appraiser, US Forest Service, Region 1

- Appraisals Reviewed and Approved on May 29, 2001
- Appraisal Reviews Completed by John Hickey, ARA, Regional Appraiser, US Forest Service, Region 1

1b. Update #1 of Appraisal Reports of Federal (Tarkio, Hebgen Lake) and State (Frank Lake, Natural Bridge, Park Lake, Tizer Lakes) properties: The purpose of the update was to provide a value of the Federal estate as now described and to bring the appraisal date of value forward to a current date for both the Federal and State appraisals. The previous appraisal (November 7, 2000) of the Federal estate only included the Tarkio tract. The updated Federal estate now includes two parcels, Tarkio and the Hebgen Lake tract.

- Appraisal Date of Value November 1, 2001.
- Appraisal Reports Completed on January 30, 2002.
- Appraisals Completed by Lee Murray, Qualified Review Appraiser, US Forest Service, Region 1

- Appraisals Reviewed and Approved on February 8, 2002
- Appraisal Reviews Completed by John Hickey, ARA, Regional Appraiser, US Forest Service, Region 1

1c. Update #2: The purpose of this update is to bring the appraisal date of value forward to a current date for both the Federal (Tarkio, Hebgen Lake) and State (Frank Lake, Natural Bridge, Park Lake, Tizer Lakes) properties and also to provide a valuation of the Middle Osprey (Picnic Point) tract.

- Appraisal Date of Value May 23, 2003.
- Appraisal Reports Completed on August 15, 2003
- Appraisals Completed by Lee Murray, Qualified Review Appraiser, US Forest Service, Region 1

- Appraisals Reviewed and Approved on September 30, 2003
- Appraisal Reviews Completed by John Hickey, ARA, Regional Appraiser, US Forest Service, Region 1

2a. Alberton Gorge River Corridor original appraisal including all parcels owned by Northwestern Energy (MPC) proposed for transfer.

- Appraisal Date of Value July 10, 1998
- Appraisal Report Completed on August 31, 1998
- Appraisal Completed by Anne Renaud-Wilkinson, Montana Certified General Real Estate Appraiser #313, AR Appraisal, Missoula, Montana.

2b. Update #1 to the Alberton Gorge River Corridor for the purpose of updating the original summary appraisal.

- Appraisal Date of Value July 13, 2000
- Appraisal Report Completed on July 13, 2000
- Appraisal Completed by Anne Renaud-Wilkinson, Montana Certified General Real Estate Appraiser #313, AR Appraisal, Boulder, Colorado

2c. Update #2 to the Alberton Gorge River Corridor for the purpose of updating the original summary appraisal.

- Appraisal Date of Value March 22, 2002
- Appraisal Report Completed on April 15, 2002
- Appraisal Completed by Anne Renaud-Wilkinson, Montana Certified General Real Estate Appraiser #313, Shelton Associates, Inc., Lakewood, Colorado

3a. FWP Region 5 Old Headquarters original appraisal including all (4) parcels owned by FWP proposed for transfer.

- Appraisal Date of Value July 13, 1998
- Appraisal Report Completed on July 17, 1998
- Appraisal Completed by Thomas C. Moss, Montana Certified General Appraiser #27, T. Moss & Associates, Billings, Montana

3b. Review #1 to the FWP Region 5 Old Headquarters for the purpose of updating the original appraisal.

- Appraisal Review Completed on July 24, 2000
- Appraisal Completed by Thomas C. Moss, Montana Certified General Appraiser #27, T. Moss & Associates, Billings, Montana

3c. Review #2 to the FWP Region 5 Old Headquarters for the purpose of updating the original appraisal – pending.

Purpose of the Draft Environmental Assessment and Current Environmental Assessment

The Draft Environmental Assessment (EA) was prepared jointly by FWP and the FS, as co-leads in June 2000. Both the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA) requirements will be met. The draft document served as part of the FS scoping process, by providing details on which the public can comment and identifying potential issues about the exchange. The MEPA process typically does not include formal scoping, but requests formal comments on the Draft EA for a thirty-day period. These recorded comments are addressed in this (final) EA, and/or within the Decision Notice.

This current EA considers the identified issues and a formal thirty-day comment period is provided after publication and public notice. The FS and FWP will write and publish a joint Decision Notice after the public comment period. A forty-five day appeals process is provided by the NEPA. Only those people who have submitted written comment during the public comment period can submit an appeal to the Decision.

Document Organization

This Environmental Assessment is divided into several chapters and sections to aid the reader in understanding the impacts to individual tracts of the proposed exchange. Each property proposed for transfer is addressed individually with location maps included. The MEPA/NEPA Checklist Environmental Assessment commonly used by FWP, was used as a guideline to aid in comprehensive consideration of environmental and human impacts. A narrative format is used, however, to better describe the composition of each tract of land. The final Summary reviews the cumulative impacts and net exchange of resources, such as timber values, access, wetlands and floodplains.